

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ANTHONY SWANSON,

Defendant.

Case No. 2:09-cr-00222-HDM-PAL

ORDER

Defendant Anthony Swanson has filed a second motion for compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A). (ECF No. 214). The government has opposed (ECF No. 218), and Swanson has replied (ECF No. 219).

The court denied Swanson's first motion for compassionate release on August 19, 2020, after concluding that there did not appear to be a rapid spread of COVID-19 in Swanson's institution, and that, regardless, the 18 U.S.C. § 3553(a) factors did not favor early release. The only additional allegations raised in Swanson's latest motion that were not considered by the court previously are that (1) there has now been a severe outbreak of COVID-19 at Swanson's institution; (2) the measures taken by the institution have not worked to prevent an outbreak of COVID-19 and do not allow inmates to protect themselves from infection; and (3) Swanson has

1 contracted the COVID-19 virus and continues to suffer a number of
2 serious symptoms, including heart palpitations, rhinitis,
3 shortness of breath, and numbness in his arms and legs while
4 sleeping. Swanson argues that he cannot protect himself from
5 reinfection in the institution and that, because of his underlying
6 condition of obesity, he remains at risk of severe illness if he
7 is reinfected.

8 Given that Swanson has already contracted COVID-19, the court
9 is not persuaded that extraordinary and compelling reasons exist
10 on the basis of these additional facts and allegations. Recent
11 scientific studies have found that COVID-19 neutralizing
12 antibodies are stably produced for 5-7 months after onset of
13 illness. See Tyler J. Ripperger et al., Orthogonal SARS-CoV-2
14 Serological Assays Enable Surveillance of Low-Prevalence
15 Communities and Reveal Durable Humoral Immunity, Immunity (Oct.
16 13, 2020), [https://www.cell.com/immunity/fulltext/S1074-](https://www.cell.com/immunity/fulltext/S1074-7613(20)30445-3)
17 [7613\(20\)30445-3](https://www.cell.com/immunity/fulltext/S1074-7613(20)30445-3). And documented cases of reinfection, while they
18 do exist, are rare. See [https://www.cdc.gov/coronavirus/2019-](https://www.cdc.gov/coronavirus/2019-ncov/your-health/reinfection.html)
19 [ncov/your-health/reinfection.html](https://www.cdc.gov/coronavirus/2019-ncov/your-health/reinfection.html). Accordingly, it is highly
20 unlikely Swanson will be reinfected, and speculative that
21 reinfection would lead to significantly more serious symptoms than
22 he is currently experiencing. Further, it is likely that a COVID-
23 19 vaccination will be available relatively soon for inmates in
24 the federal institutions. Finally, Swanson's additional arguments
25 do not change the court's conclusion that the § 3553(a) factors do
26 not favor early release.

27 Accordingly, on the basis of the foregoing and for the reasons
28 set forth in the court's order of August 19, 2020, IT IS THEREFORE

1 ORDERED that Swanson's second motion for compassionate release
2 (ECF No. 214) is hereby DENIED.

3 IT IS SO ORDERED.

4 DATED: This 23rd day of December, 2020.

5 
6

7 UNITED STATES DISTRICT JUDGE
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28